

**STATE OF NEW JERSEY**

**Board of Public Utilities**

*Two Gateway Center*

*Newark, NJ 07102*

ENERGY

IN THE MATTER OF THE PETITION OF )  
 NUI UTILITIES INC. d/b/a ELIZABETHTOWN )  
 GAS COMPANY TO (1) REVIEW ITS BASIC )  
 GAS SUPPLY SERVICE RATE, (2) ESTAB- )  
 LISH ITS GAS COST UNDERRECOVERY )  
 ADJUSTMENT RATE, (3) REVISE ITS RATES )  
 FOR COMMERCIAL AND INDUSTRIAL AIR )  
 CONDITIONING SERVICE AND SEASONAL )  
 DELIVERY SERVICE, AND (4) REVIEW ITS )  
 ON-SYSTEM MARGIN SHARING CREDIT )

ORDER AUTHORIZING  
 PROVISIONAL RATES

DOCKET NOS. GR01110771

(SERVICE LIST ATTACHED)

BY THE BOARD:

In October 2000, Elizabethtown Gas Company ("Petitioner") and New Jersey's three other natural gas distribution utilities filed emergent motions for rate relief, due to an unprecedented, rapid increase in natural gas prices. The Board of Public Utilities ("Board") considered Petitioner's motion and by its Order dated November 1, 2000, in Docket Nos. GR00070470 and GR00070471 ("November 2000 Order"), approved, on an interim basis, subject to refund and interest, an increase in Petitioner's Levelized Gas Adjustment Clause ("LGAC") billing factor, including sales and use tax ("SUT") from \$0.1236 per therm to \$0.2665 per therm effective on and after the date of the November 2000 Order. The Board also approved the implementation of Petitioner's Flexible Pricing Mechanism ("FPM") through April 2001, limiting monthly price increases to \$0.0194 per therm, including SUT, subject to further Board decision following hearings to be held before the Board during January 2001, addressing two issues recalled from the Office of Administrative Law in the matter of Petitioner's request to adjust its LGAC factor for the year 2001, namely: (1) the level of rates necessary for Petitioner to recover its prudently incurred gas costs; and (2) Petitioner's flexible pricing proposal.

By subsequent Orders dated January 31, 2001 and March 1, 2001, the Board extended Petitioner's provisional FPM through February and March 2001, subject to refund and interest, pending its final review of the full record of these proceedings.

By further Order dated March 30, 2001 ("March 2001 Order"), the Board determined that setting the 2000-2001 LGAC billing factor at the rates set out in the November 2000 Order and continuing the controlled monthly increases (or, if applicable, decreases) through July 2001, under the terms set for Petitioner's FPM by the November 2000 Order, was both reasonable and necessary as a way to limit the unprecedented anticipated underrecoveries. The Board ordered that the LGAC factor set for July 2001 would remain constant until such time as the Board may modify the terms of the March 2001 Order, subject to true-up at the end of the LGAC

period. The Board also determined that the extraordinary circumstances prevailing in the case warranted a limited waiver of N.J.A.C. 14:3-13.4, the Board rule requiring payment of interest on overrecoveries but disallowing interest on underrecoveries of LGAC costs. The Board noted that the rule was expressly designed to set a "generic policy" to discourage overestimation of gas or other costs by the utilities, as well as to set a uniformly calculated rate of interest for over-recoveries, equal to the Board-authorized rate of return for each company. See, 28 N.J.R. 4079. The situation at the time, with unprecedented large rapid increases in gas costs, recovery of which had been deferred by Board Order in order to avoid rate shock for consumers, was simply not anticipated when the rule was promulgated in 1996. The Board determined that the situation at the time clearly constituted a special case, justifying a limited waiver of the rule, pursuant to N.J.A.C. 14:1-1.2, so as to secure a just determination of the 2000-2001 LGAC proceeding.

The Board ordered that simple interest at the rate of 5.5% per year may be accrued by Petitioner on under-recovered gas costs commencing on April 1, 2001 on a monthly basis and continuing through October 31, 2001. The underrecovered gas cost amount as of that date, plus any accrued interest at the 5.5% rate will then be established as a Gas Cost Underrecovery Adjustment ("GCUA") surcharge to be collected commencing December 1, 2001 over an extended amortization period of three years from that date, with simple interest at 5.5%, until November 30, 2004. The Board noted that the interest will be applied only to the monthly underrecoveries as of April 1, 2001 through October 31, 2001 and thereafter only to any unrecovered amount remaining as of October 31, 2001 and that the interest rate allowed is less than the amount credited to customers for overrecoveries and, according to Petitioner, less than its current rate for short term borrowing. The GCUA will be collected from all sales customers, and transportation customers who were sales customers, who were subject to the LGAC during all or part of the 2000-2001 LGAC period.

The Board further directed Petitioner to submit its 2001-2002 LGAC petition on November 15, 2001, with said petition to contain calculations in support of the proposed GCUA surcharge and the underrecovered balance to be collected from customers. Collection of the GCUA surcharge shall begin on December 1, 2001, but shall be provisional, subject to refund and interest, until the Board renders a final decision on Petitioner's 2001-2002 LGAC petition. In order to mitigate further rate increases, if Petitioner proposes to implement the GCUA surcharge without raising its LGAC billing factor beyond that set by this Order, the Board stated that it may permit Petitioner to increase its recoverable carrying costs on the GCUA amount to an annual simple interest rate of 5.75% as of December 1, 2001. The Board emphasized that its actions concerning underrecoveries in this proceeding are based on extraordinary facts of this case and are not to be construed as a precedent in future proceedings.

In order to continue to mitigate the impact of rate increases on customers, the Board directed Petitioner to continue its consumer education and outreach efforts, and to implement the additional mitigation measures set forth in the November 2000 Order. The Board further directed Petitioner to include, in its consumer education and outreach efforts, information concerning the recently approved Comprehensive Resource Analysis of Energy Programs component for energy assistance to low-income customers and the increased availability of NJ SHARES funding assistance.

With respect to the issue of whether Petitioner has adequate programs in place to protect ratepayers against the risk of future sharp fluctuations in wholesale natural gas prices, the Board directed Petitioner to submit a comprehensive hedging program to Board Staff and the RPA within 60 days of the date of the March 2001 Order. The submission was to include

specific information about how its hedging program will be managed and supervised. The financial and physical hedging strategies to be utilized were to be identified and Petitioner was to establish and fully describe a risk management committee authorized to review hedging activity on an ongoing basis. The Board further directed Petitioner to submit quarterly status reports to Board Staff and the RPA, identifying outstanding hedging positions and any changes to its hedging policy.

On November 19, 2001, Petitioner submitted its 2001-2002 LGAC petition, dated November 15, 2001, pursuant to the Board's directive in its March 2001 Order. Among other things, Petitioner proposed to decrease its LGAC rate, now referred to by Petitioner as the Basic Gas Supply Service ("BGSS") rate, from \$0.7822 per therm, including SUT, to \$0.5751 per therm, including SUT, also to become effective December 1, 2001. Petitioner proposed to establish its GCUA rate of \$0.0650, including SUT, also to become effective December 1, 2001. Petitioner asserts that the proposed BGSS rate, together with the new GCUA surcharge, will decrease the monthly bill of a typical residential customer using 100 therms from \$111.67 to \$97.46, a decrease of \$14.21 or 12.72%.

By letter dated November 19, 2001, the RPA urged the Board to order that the Petitioner provisionally implement both its proposed Gas Cost Underrecovery Adjustment and its proposed LGAC cost recovery rate for 2001-2002, effective December 1, 2001.

### Discussion and Findings

Pursuant to its March 2001 Order, the Board authorized Petitioner to implement its GCUA rate on December 1, 2001, on a provisional basis, subject to refund and interest, without further Board approval, until the Board renders a final decision on Petitioner's 2001-2002 BGSS petition.

The Board has reviewed Petitioner's 2001-2002 LGAC petition and FINDS that implementation of the proposed BGSS rate decrease on December 1, 2001, simultaneously with the GCUA surcharge, offsets the impact of the GCUA surcharge and results in a net decrease to ratepayers and that this decrease should be implemented as soon as possible.

Therefore, the Board HEREBY AUTHORIZES Petitioner to implement its proposed BGSS rate of \$0.5751, including SUT, effective December 1, 2001. Implementation of the BGSS rate shall also be on a provisional basis, subject to refund and interest until such time as the Board renders its final decision in this matter.

Therefore, the Board HEREBY ORDERS the Company to file tariff pages which confirm to the terms and conditions of this Order within ten (10) business days from the date of this Order.

DATED: December 7, 2001

BOARD OF PUBLIC UTILITIES

BY:  
(SIGNED)

CONNIE O. HUGHES  
PRESIDENT

(SIGNED)  
FREDERICK F. BUTLER  
COMMISSIONER

(SIGNED)  
CAROL J. MURPHY  
COMMISSIONER

ATTEST:  
(SIGNED)

HENRY M. OGDEN  
ACTING BOARD SECRETARY